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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,177

02/22/2007

Martin Stumpert

P18161-US1

3952

27045

7590

07/15/2009

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EXAMINER

HARRINGTON, MICHAEL P

ART UNIT

PAPER NUMBER

4135

MAIL DATE

DELIVERY MODE

07/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,177	Applicant(s) STUMPERT ET AL.	
	Examiner Michael Harrington	Art Unit 4135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 13-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>17 March 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on 17 March 2006.
2. Claims 1-25 are currently pending and have been examined.
3. Claims 1-25 are subject to restriction requirement.
4. Claims 13-25 have been withdrawn from consideration.
5. Claims 1-12 have been elected and examined.

Election/Restrictions

6. Group I, claim(s) 1-12, drawn to method for delivering and obtaining a good from a storage which contains a lock system, drawn to 705/1.
7. Group II, claim(s) 13-25, drawn to a system and method of operating a lock remotely, drawn to 340/5.73.
8. Restriction is required under 35 U.S.C. 121 and 372.
9. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
10. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.
11. Group I, claim(s) a method for delivering and obtaining a good from a storage which contains a lock system, drawn to 705/1.

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12. Group II, claim(s) a system and method of operating a lock remotely, drawn to 340/5.73.
13. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I is a process for delivering or obtaining a good from a storage container that has a lock system. Group II is different because it claims a lock system and a method of operating the lock system.
14. During a telephone conversation with Sidney Weatherford on 11 June 2009 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-25 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
15. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 101

16. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

17. Claims 1-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 1-17, a claimed process is eligible for patent protection under 35 U.S.C. § 101 if:

"(1) It is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing. See Benson, 409 U.S. at 70 ('Transformation and reduction of an article 'to a different state or thing' is the clue to the patentability of a process claim that does not include particular machines.');

Diehr, 450 U.S. at 192 (holding that use of mathematical formula in process 'transforming or reducing an article to a different state or thing' constitutes patent-eligible subject matter); see also Flook, 437 U.S. at 589 n.9 ('An argument can be made [that the Supreme] Court has only recognized a process as within the statutory definition when it either was tied to a particular apparatus or operated to change materials to a 'different state or thing' '); Cochrane v. Deener, 94 U.S. 780, 788 (1876) ('A process is...an act, or a series of acts, performed upon the subject-matter to be transformed and reduced to a different state or thing.').⁷ A claimed process involving a fundamental principle that uses a particular machine or apparatus would not pre-empt uses of the principle that do not also use the specified machine or apparatus in the manner claimed. And a claimed process that transforms a particular article to a specified different state or thing by applying a fundamental principle would not pre-empt the use of the principle to transform any other article, to transform the same article but in a manner not covered by the claim, or to do anything other than transform the specified article." (In re Bilski, 88 USPQ2d 1385, 1391 (Fed. Cir. 2008))

18. Also noted in Bilski is the statement, "Process claim that recites fundamental principle, and that otherwise fails 'machine-or-transformation' test for whether such claim is drawn to patentable subject matter under 35 U.S.C. §101, is not

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rendered patent eligible by mere field-of-use limitations; another corollary to machine-or- transformation test is that recitation of specific machine or particular transformation of specific article does not transform unpatentable principle into patentable process if recited machine or transformation constitutes mere 'insignificant post-solution activity.'" (In re Bilski, 88 USPQ2d 1385, 1385 (Fed. Cir. 2008)) Examples of insignificant post- solution activity include data gathering and outputting. Furthermore, the machine or transformation must impose meaningful limits on the scope of the method claims in order to pass the machine-or-transformation test. It is also noted that the mere recitation of a machine in the preamble in a manner such that the machine fails to patentably limit the scope of the claim does not make the claim statutory under 35 U.S.C. § 101, as seen in the Board of Patent Appeals Informative Opinion Ex parte Langemyr et al, (Appeal 2008-1495). Claims 1-17 are not tied to a particular machine or apparatus nor do they transform a particular article into a different state or thing, thereby failing the machine-or-transformation test; therefore, claims 1-17 are non-statutory under § 101.

Claim Rejections - 35 USC § 112

- 19.** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 20.** Claim 1, rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. The Applicant states, "determining the location of the storage **and/or** the lock system." By stating, "**and/or**" the Applicant is failing to distinctively point out their invention because it is unclear whether the Applicant is claiming the determination of the storage, lock system or both. For the purpose of examination, the Examiner will interpret this to read, "determining the location of the storage **or** the lock system."

21. Claim 1, rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Applicant states, "communicating the determined location to the second entity in regular intervals or whenever the location of the storage **and/or** the lock system changes." By stating, "**and/or**" the Applicant is failing to distinctively point out their invention because it is unclear whether the Applicant is claiming communicating the location of the storage or lock system, or both in regular intervals or whenever the location of the storage, or lock system, or both changes. For the purpose of examination, the Examiner will interpret this to read, "communicating the determined location to the second entity in regular intervals or whenever the location of the storage **or** the lock system changes

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

24. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van

Rysselberghe (US 2005/0165612 A1) (hereinafter Van Rysselberghe), in view of

Kniffin et al. (US 6072402) (hereinafter Kniffin), further in view of Brockman et al.

(US 2004/0117196 A1) (hereinafter Brockman).

25. With respect to claim 1, Van Rysselberghe teaches:

- *Transporting the good by a second entity to a storage being locked by a lock system* (See at least paragraph 46 which describes the delivery service delivering the goods to the delivery address).
- *Determining the location of the storage and/or the lock system* (See at least paragraph 42 which describes the delivery company being informed of the delivery address).

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- *Opening the storage; and transferring the good from the second entity to the opened storage* (See at least paragraph 46 which describes the delivery service delivering the good after opening the e-lock).

26. Van Rysselberghe discloses all of the limitations as stated above. Van Rysselberghe does not disclose the following limitations, however Brockman as stated teaches:

- *Communicating the determined location to the second entity in regular intervals or whenever the location of the storage and/or the lock system changes* (See at least paragraph 66 which describes the handhelds periodically downloading delivery information over the network, which is then displayed visually or aurally to the delivery personnel in order to complete the service).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the delivery service of Van Rysselberghe, with the delivery personnel being updated regularly about the location of the destination of the delivery of Brockman. Almost all delivery personnel use GPS navigational systems to direct the delivery personnel to the required location. This information is provided to the GPS on a regular basis in order to inform the user of the destination's location or any changes in the location. Using GPS is a common technique used by delivery drivers and would be obvious to add to a delivery service.

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27. The combination of Van Rysselberghe and Brockman discloses all of the limitations as stated above. Rysselberghe and Brockman do not disclose the following limitations, however Kniffin teaches:

- *Communicating a notification to the first entity for requesting an unlocking of the lock system for the second entity* (See at least column 2, lines 31-43 which describes a user who seeks to access an electronic lock, contacting a person in control of the lock in order to request that the lock be opened),
- *Sending a message via a mobile telecommunication system from the first entity to the lock system for unlocking the lock system* (See at least column 2, lines 44-53, which describes the person in control of the lock sending a message to the lock system to open for the user).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the delivery service of Van Rysselberghe, with the GPS navigation of Brockman, with a user contacting the lock's controller to open the lock, and doing so wirelessly of Kniffin. If the delivery service is required to contact the lock's owner for the lock to be opened, then safety of the goods inside the storage container will be increased. This would allow the owner of the lock system to exactly when it was opened, and who opened the lock system. Sending a signal to open the lock wirelessly is also more efficient than having to open the lock manually because the lock's owner will be able to open the lock from any location. This will save the lock's owner money and time by guaranteeing them less travel time to the lock to unlock and open it for others.

28. With respect to claim 2, the combination of Van Rysselberghe, Brockman, and Kniffin disclose all of the limitations of claim 1 as stated above. In addition Brockman teaches:

- *The step of communicating an address of the storage or the lock system to the second entity during transport (See at least paragraph 66 which describes the handhelds periodically downloading delivery information over the network, which is then displayed visually or aurally to the delivery personnel in order to complete the service).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the delivery service of Van Rysselberghe, with the delivery personnel being updated regularly about the location of the destination of the delivery during transport of Brockman. Almost all delivery personnel use GPS navigational systems to direct the delivery personnel to the required location. This information is provided to the GPS on a regular basis in order to inform the user of the destination's location or any changes in the location. Using GPS is a common technique used by delivery drivers and would be obvious to add to a delivery service.

29. With respect to claim 3, Van Rysselberghe teaches:

- *A second entity traveling to a storage comprising the good, the storage being locked by a lock system (See at least paragraph 50 which describes*

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a pick-up person going to an electronic storage unit that has an e-lock on it that contains some good).

- *Determining the location of the storage or the lock system* (See at least paragraph 50 which describes the pick-up person being informed of where the storage container is).
- *Transferring the good from the opened storage to the second entity* (See at least paragraph 51 which describes the procurement party traveling to the lock, opening it, and obtaining the goods inside).

30. Van Rysselberghe discloses all of the limitations of claim 3 as stated above. Van Rysselberghe does not disclose the following limitations, however Kniffin teaches:

- *Communicating a notification to the first entity for requesting an unlocking of the lock system for the second entity* (See at least column 2, lines 31-43 which describes a user who seeks to access an electronic lock, contacting a person in control of the lock in order to request that the lock be opened),
- *Sending a message via a mobile telecommunication system from the first entity to the lock system for unlocking the lock system* (See at least column 2, lines 44-53, which describes the person in control of the lock sending a message to the lock system to open for the user).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the delivery service of Van Rysselberghe, with a user contacting the lock's

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controller to open the lock, and doing so wirelessly of Kniffin. If the delivery service is required to contact the lock's owner for the lock to be opened, then safety of the goods inside the storage container will be increased. This would allow the owner of the lock system to exactly when it was opened, and who opened the lock system. Sending a signal to open the lock wirelessly is also more efficient than having to open the lock manually because the lock's owner will be able to open the lock from any location. This will save the lock's owner money and time by guaranteeing them less travel time to the lock to unlock and open it for others.

31. The combination of Van Rysselberghe and Kniffin discloses all of the limitations of claim 3 as stated above. Van Rysselberghe and Kniffin do not disclose the following limitations, however Brockman teaches:

- *Communicating the determined location to the second entity in regular intervals or whenever the location of the storage and/or the lock system changes* (See at least paragraph 66 which describes the handhelds periodically downloading delivery information over the network, which is then displayed visually or aurally to the delivery personnel in order to complete the service).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the delivery service of Van Rysselberghe, with a user contacting the lock's controller to open the lock, and doing so wirelessly of Kniffin, with the delivery personnel being updated regularly about the location of the destination of the delivery of

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Brockman. Almost all delivery personnel use GPS navigational systems to direct the delivery personnel to the required location. This information is provided to the GPS on a regular basis in order to inform the user of the destination's location or any changes in the location. Using GPS is a common technique used by delivery drivers and would be obvious to add to a delivery service.

32. With respect to claim 4, the combination of Van Rysselberghe, Kniffin, and Brockman discloses all of the limitations of claim 3 as stated above. In addition, Brockman teaches:

- *Communicating a delivery address related to the storage or the lock system to the second entity during traveling (See at least paragraph 66 which describes the handhelds periodically downloading delivery information over the network, which is then displayed visually or aurally to the delivery personnel in order to complete the service).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the delivery service of Van Rysselberghe, with the delivery personnel being updated regularly about the location of the destination of the delivery during transport of Brockman. Almost all delivery personnel use GPS navigational systems to direct the delivery personnel to the required location. This information is provided to the GPS on a regular basis in order to inform the user of the destination's location or any changes in the location. Using GPS is a common technique used by delivery drivers and would be obvious to add to a delivery service.

33. With respect to claim 5, Van Rysselberghe/Kniffin/Brockman discloses all of the limitations of claim 3 as stated above. In addition, Kniffin teaches:

- *Obtaining, by the second entity, information for notifying the first entity from the storage or the lock system (See at least column 2, lines 31-43, which describes how the user uses the locks identification numbers to identify the lock to the clearinghouse).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the delivery and procurement service of Van Rysselberghe, with the GPS tracking and updating of Brockman, with the user finding information regarding the lock system on the lock and using it to inform the operator of Kniffin. A user that is requesting that a lock be opened needs to be able to identify the lock system, so that the operator knows which lock to open. Using identification numbers on the lock is an easy and cost effective means to identify the correct lock that needs to be opened. Using an identification number to represent the correct lock will also assist the procurement personnel by helping point out the correct lock to be opened if there is more than one lock in the area.

34. With respect to claim 6, Van Rysselberghe/Kniffin/Brockman discloses all of the limitations of claim 3 as stated above. In addition, Van Rysselberghe teaches:

- *Authenticating at least one of the first entity, the second entity, and the lock system for unlocking (See at least paragraph 38 which describes the*

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delivery person having to input a personal code to gain access to the lock).

35. With respect to claim 7, Van Rysselberghe/Kniffin/Brockman discloses all of the limitations of claim 3 as stated above. In addition, Van Rysselberghe teaches:

- *Verifying an authorization of at least one of the first and the second entity by the lock system for the unlocking* (See at least paragraph 38 which describes the delivery person having to input a personal code to gain access to the lock).

36. With respect to claim 8, Van Rysselberghe/Kniffin/Brockman discloses all of the limitations of claim 3 as stated above. In addition, Van Rysselberghe teaches:

- *Verifying restriction information for the unlocking* (See at least paragraph 38 which describes the delivery person having to input a personal code to gain access to the lock).

37. With respect to claim 9, Van Rysselberghe/Kniffin/Brockman discloses all of the limitations of claim 3 as stated above. In addition, Van Rysselberghe teaches:

- *Supervising one or more steps of the method for delivery* (See at least paragraph 46 which describes the e-lock recording data pertaining to the delivery of the good to the storage).

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- 38.** Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Rysselberghe, in view of Kniffin, and in view of Brockman as applied to claim 3 as stated above, and further in view of OFFICIAL NOTICE.
- 39.** With regard to the limitation of claim 12, Van Rysselberghe discloses a delivery and procurement service that can deliver or procure a good from storage with an electronic lock. Kniffin discloses the lock being remotely opened via a wireless signal sent from the person controlling the lock. Brockman discloses a GPS system for tracking the storage facility, so that delivery or procurement personnel will be able to arrive at the correct location. Van Rysselberghe, Kniffin, and Brockman do not specifically state that the lock system is locked remotely. However, the Examiner takes **Official Notice** that it is old and well known in the business arts that a lock can be both locked and unlocked. If the lock's controller sends a signal to unlock an electronic lock, the same person will be able to send a signal to lock the electronic lock system. The process of locking and unlocking the lock is the same, and is commonly known in the business arts.
- 40.** Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Rysselberghe, in view of Kniffin, and in view of Brockman as applied to claim 3 as stated above, and further in view of Gudmundsson (US 2003/0102958 A1) (hereinafter Gudmundsson).

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41. With respect to claim 10, Van Rysselberghe/Kniffin/Brockman discloses all of the limitations of claim 3 as stated above. In addition, Gudmundsson teaches:

- *Wherein the storage is an interior of a vehicle* (See at least paragraph 20 which describes the user unlocking a vehicle).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the delivery and procurement service of Van Rysselberghe, with the remotely unlocking of the lock system of Kniffin, with the delivery service being updated with the location of the good of Brockman, with the storage container with the lock system being a vehicle of Gudmundsson. Locks can be placed on various objects that need to be secured from unwanted personnel. Placing the electronic locks on a vehicle would allow the owner of the vehicle to increase their security and prevent just anyone from gaining access to the vehicle.

42. With respect to claim 11, Van Rysselberghe/Kniffin/Brockman discloses all of the limitations of claim 3 as stated above. In addition, Gudmundsson teaches:

- *Wherein the storage is the trunk of a car* (See at least paragraph 20 which describes the user unlocking a vehicle. The Examiner notes that the Applicant defines on page 10, lines 26-28, of the specifications, that a trunk is an example of the interior of a vehicle).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the delivery and procurement service of Van Rysselberghe, with the remotely unlocking of the lock system of Kniffin, with the delivery service being updated

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with the location of the good of Brockman, with the storage container with the lock system being a vehicle of Gudmundsson. Locks can be placed on various objects that need to be secured from unwanted personnel. Placing the electronic locks on a vehicle would allow the owner of the vehicle to increase their security and prevent just anyone from gaining access to the vehicle.

Conclusion

- 43.** Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Michael Harrington** whose telephone number is **571.270.1365**. The Examiner can normally be reached on Monday-Thursday, 8:00am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Naeem Haq** can be reached at **571.272.6758**.
- 44.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> . Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

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or faxed to **571-273-8300**.

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Randolph Building
401 Dulany Street
Alexandria, VA 22314.

/Michael Harrington/

Examiner

30 June 2009

Art Unit 4135

/Naeem Haq/
Supervisory Patent Examiner, Art Unit 4135